

nominees to the Second Circuit, but we have made a strong effort to ameliorate them. Unfortunately an unexpected illnesses have taken their toll on the Second Circuit, but we have done our part in committee. Two of the four nominees to that court are pending on the Senate floor, the other two recently had a hearing, and I expect will be voted out of Committee on Thursday.

Apparently, President Clinton has not shared this sense of urgency with regard to the Second Circuit. In fact, of the five current vacancies on that court, one sat without a nominee for almost two years, another did not receive a nominee for over ten months, and the other waited just over eight months to receive a nominee. Most disturbing of all is the seat vacated by Senior Judge Jon Newman, vacant since July 1, 1997, which is yet to receive a nominee. As I have stated so often before, I'm a pretty good chairman of the Judiciary Committee, but I can't get judges confirmed that have not been nominated.

Now, while the debate about vacancy rates on our federal courts is not unimportant, it remains more important that the Senate perform its advice and consent function thoroughly and responsibly. Federal judges serve for life and perform an important constitutional function, without direct political accountability to the people. Accordingly, the Senate should never move too quickly on nominations before it. Just this past year we saw two examples of what can happen when we try to move nominations along perhaps too quickly. In one instance, a nominee for a federal district court was reported out of the Judiciary Committee before all the details of her record as a state trial judge were known. As it happens, the District Attorney in the nominee's city, who happened to be of her party, and the district attorneys' association in her home state all publicly opposed the nomination, setting forth facts demonstrating a very serious anti-prosecution bias in her judicial record. It's cases like these that underscore the importance of proceeding very deliberately with nominations for these most important life-tenured positions.

Let me make an important point here: federal judges should not be confirmed simply as part of a numbers game to reduce the vacancy rate to a particular level. While I plan to continue to oversee a fair and principled confirmation process, as I always have, I want to emphasize that the primary criteria in this process is not how many vacancies need to be filled, but whether President Clinton's nominees are qualified to serve on the bench, and will not, upon receiving their judicial commission, spend a lifetime career rendering politically motivated, activist decisions. The Senate has an obligation to the American people thoroughly to review the records of the nominees it receives to ensure that they are capable and qualified to serve

as federal judges, and as part of that assessment of qualification, to ensure that nominees properly understand the limitations of the judicial role.

Clearly, I believe the Committee has done its part. I hope to continue to work with the Administration and with Senator LEAHY to ensure that qualified individuals will serve on the federal bench.

#### MEMORIAL DAY 1998

Mr. HATCH. Mr. President, since the Civil War, more than 1.1 million American veterans have lost their lives in service to our Nation. I am humbled by their sacrifice.

I am grateful for the price they have paid for our liberty, the terrible price of individual lives, of men and women who were part of families. As we approach this Memorial Day, I want to pause a moment during this debate to remember their gift.

I am especially proud of Utah's proud tradition of honorable service. The story of the Mormon pioneers who made the grueling trek across the plains and over the Great Divide to escape persecution, in search of religious freedom is well known. Perhaps less well known is the story of the Mormon battalion.

Mr. President, in 1846, while there was an active order in effect in the state of Missouri for the extermination of Mormons, these Americans who had been driven from their homes in Nauvoo, Illinois, were asked to assemble a battalion of 500 men. With their ranks and strength already significantly depleted by disease, hardship, and persecution, most would have understood if the story had ended with an indignant refusal to respond to the request.

Instead, led by Brigham Young, these fathers, brothers, and sons who had seen their rights as Americans trampled, stepped forward to answer their country's call. I might mention that among them was a young man named Orrin Hatch.

This same, passionate willingness to serve one's country still thrives throughout my state. I remember today and honor the 147,000 veterans throughout the state of Utah who have honorably served. But, on Memorial Day, we especially remember those who left in service to our country but who did not return. They have preserved freedom for all generations who followed.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

##### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one treaty and sun-

dry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

##### *To the Senate of the United States:*

I am gratified that the United States Senate has given its advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic.

The Senate's decisive vote was a milestone on the road to an undivided, democratic and peaceful Europe. The message this vote sends is clear: American support for NATO is firm, our leadership on both sides of the Atlantic is strong, and there is a solid bipartisan foundation for an active U.S. role in transatlantic security.

I thank Majority Leader Lott, Minority Leader Daschle, Senators Helms and Biden, Senator Roth and the members of the NATO Observer Group, and the many others who have devoted so much time and energy to this historic effort. The continuous dialogue and consultation between the Administration and the Congress on this issue was a model of bipartisan partnership. I am committed to ensuring that this partnership continues and deepens as we proceed toward NATO'S 50th anniversary summit next year in Washington.

The resolution of ratification that the Senate has adopted contains provisions addressing a broad range of issues of interest and concern, and I will implement the conditions it contains. As I have indicated following approval of earlier treaties, I will of course do so without prejudice to my authorities as President under the Constitution, including my authorities with respect to the conduct of foreign policy. I note in this connection that conditions in a resolution of advice and consent cannot alter the allocations of authority and responsibility under the Constitution.

WILLIAM J. CLINTON.  
THE WHITE HOUSE, May 21, 1998.

#### REPORT CONCERNING THE RATIFICATION OF THE PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC—MESSAGE FROM THE PRESIDENT—PM 130

The PRESIDING OFFICER laid before the Senate the following message